THE BOMBAY REPATRIATED PRISONERS ACT, 1949.

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BOMBAY ACT No. XXVII OF 1949.[1]

[THE BOMBAY REPATRIATED PRISONERS ACT, 1949.]

[*1st June 1949*]

An Act to provide for the reception, detention and trial of prisoners transferred from Pakistan to the Province of Bombay.

WHEREAS it is expedient to provide for the reception, detention and trial of prisoners transferred from Pakistan to the Province of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Repatriated Prisoners Act, 1949.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "prison" includes a central, district or subsidiary jail or judicial lock-up, and every place which is used as a place of detention for persons who have been arrested or detained under any law for the time being in force;

(*b*) "prisoner" includes every person who is detained in a prison by order of a competent authority not being a Civil Court;

(*c*) "repatriated prisoner" means a prisoner who being in custody in a prison or other place of detention in Pakistan has been conveyed and delivered by a duly authorised officer to any officer of this Province.

Custody and removal of repatriated prisoners.

3. The Provincial Government may, by general or special order, specify the place at which and, either by name or designation, the officer by whom, custody of a repatriated prisoner, together with any article or records which may have been sent along with him, shall be received and the prison to which he is to be removed, and the officer in charge of such prison shall thereupon receive such prisoner and any article or records which may be produced along with him.

Convicted prisoners.

4. The officer in charge of the prison shall detain in custody a repatriated prisoner who, before his repatriation, was a convict undergoing a sentence in a prison—

(*a*) according to the tenor of the warrant, writ or order of commitment to prison, if any, relating to such prisoner, or

(*b*) failing such warrant, writ or order as aforesaid in accordance with the order of the Provincial Government.

Prisoners undergoing trial before repatriation.

5. (*1*) The Provincial Government may by order direct any Court, other than the High Court, to enquire into or try any case which may have been pending against a repatriated prisoner immediately before his repatriation :

[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, page 66.

Provided that—

(*a*) the offence charged against such prisoner is also an offence under the law in force in the Province; and

(*b*) such Court would have been competent to try such offence if it had been committed within the local limits of its jurisdiction.

(*2*) On the making of an order under sub-section (*1*), the Court specified in the order shall proceed to enquire into or try such case according to law, as if the offence to which it relates had been committed within the local limits of its jurisdiction, and all the provisions of the Code of Criminal Procedure, 1898, and of all other laws in force in this Province shall, so far as may be, apply to such proceedings. V of 1898.

(*3*) In any proceedings under sub-section (*2*), all evidence, both oral and documentary, which has been duly received in the proceedings against the repatriated prisoner held prior to his repatriation, or the copies of such evidence certified under section 76 of the Indian Evidence Act, 1872, may be treated as evidence in the case for all purposes subject to the provisions of the Indian Evidence Act, 1872. I of 1872. I of 1872.

Prisoners repatriated while in police custody.

6. (*1*) The Provincial Government may by order in respect of any repatriated prisoner who, immediately before repatriation, was held under arrest or detention in police custody during or after completion of a police investigation, specify a Presidency Magistrate or Magistrate of the first class, as the case may be, who shall have and exercised jurisdiction for the purposes of this section.

(*2*) Every repatriated prisoner in respect of whom an order has been made under sub-section (*1*) shall be produced without dealy before the Magistrate specified in the order and such Magistrate may take cognizance of any offence that such repatriated prisoner may be reported by a police officer to have committed and may grant him bail.

(*3*) Where the repatriation was effected before completion of the police investigation or the Magistrate is of the opinion that the evidence is deficient, the repatriated prisoner shall be released upon his entering into a bond, with or without sureties, as the Magistrate may direct, to appear if and when so required, and in the meantime the Magistrate may order such further enquiry into the substance of the allegations as he thinks fit.

(*4*) In every case falling under sub-section (*3*), the Magistrate may, if he is satisfied at any stage that there is no prospect of securing sufficient evidence to justify commencement of proceedings against the repatriated prisoner, direct that such prisoner be discharged from his bond.

Delegation of powers.

7. The Provincial Government may by order direct that the powers conferred on it by section 3, 4, 5 or 6 shall be also exercisable by such officer or authority and in such circumstances and under such conditions, if any, as may be specified in the order.

Powers of Provincial Government in relation to prisoners detained for reasons of security.

8. In relation to any repatriated prisoner whose detention immediately before his repatriation had been ordered under any law authorising preventive detention for reasons connected with the maintenance of public order, the Provincial Government shall have the same power in respect of extension or reduction of the term of detention as it possesses in relation to persons detained under section 2 of the Bombay Public Security Measures Act, 1947. Bom. VI of 1947.

Jurisdiction of the High Court.

9. The High Court shall have, in relation to a repatriated prisoner, the same jurisdiction which it has in relation to a person who has been arrested or detained within the limits of its appeallate jurisdiction in the same circumstances in which such prisoner was arrested or detained immediately before his repatriation.

Powers of Provincial Government to suspend, remit or commute sentences.

10. The Provincial Government shall have the same powers to suspend, remit or commute a sentence of punishment awarded to a repatriated prisoner whether before or after his repatriation, as it possesses in relation to persons who have been sentenced in the Province for offences committed within the Province.

Lawfulness of custody and retaking upon escape.

11. It shall be lawful for any officer to whom an order under section 3 or under section 4 is directed to receive, to hold in custody, convey and deliver the repatriated prisoner, named in the order as directed therein and if any such prisoner escapes out of any custody to which he may be delivered in pursuance of the order, he may be retaken as a person accused or convicted of an offence may be retaken upon an escape.

Powers to make rules.

12. The Provincial Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.